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November 11, 1997

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Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Future Tech International

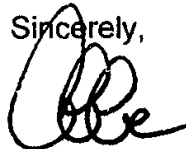
Dear Larry:

If you recall, some weeks ago, I met with you and informed you that we represented a client which, as a result of an internal review which was done, asked us to report our findings to the FEC. The internal review now has been completed, and we are sending you the report resulting from the internal review of Future Tech International and our client Mark Jimenez. The report reveals that there have been inadvertent mistakes in a handful of political contributions. The review also has confirmed that there have been no errors in the vast majority of the funds used for other contributions.

We have reported these findings to the Department of Justice in hopes that we can come to an agreed-upon FEC resolution as soon as possible. Please review the report and exhibits that we are sending and let me know when we can follow-up with another meeting.

We appreciate your consideration and attention.

Sincerely,



Abbe David Lowell

Enclosure

**FUTURE TECH INTERNATIONAL, INC.'S PRESENTATION
TO THE FEDERAL ELECTION COMMISSION**

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1400 L Street, N.W.
Washington, D.C. 20005-3502

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Washington, D.C. 20005

November 12, 1997

**THIS SUBMISSION IS BEING MADE PURSUANT TO FEDERAL RULE OF
EVIDENCE 410 IN CONTEMPLATION OF SETTLEMENT AND MAY NOT BE
OTHERWISE DISCLOSED OR USED IN ANY PROCEEDING.**

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I. INTRODUCTION

Future Tech International, Inc. ("FTI") is submitting this memorandum and is making its attorneys and personnel available to the Federal Election Commission¹ to report the findings of an internal review of its and its employees' political and campaign activity. The review discovered a handful of inadvertent errors in some contributions, out of a vast amount of political and charitable activity. This submission describes the events that occurred in the context of the company and its founder's background.

II. FTI HAS LITERALLY REVOLUTIONIZED THE COMPUTER BUSINESS IN LATIN AND SOUTH AMERICA AND PROVIDED OPPORTUNITIES FOR YOUNG MOTIVATED SOUTH FLORIDIANS (INCLUDING MANY IMMIGRANTS).

In 1989, Mr. Mark Jimenez, a permanent resident alien originally from the Philippines, and a twenty percent American partner, Leonard J. Keller, invested \$30,000 to acquire FTI, a then-small, bankrupt Miami-based computer distribution company with approximately ten employees. In the ensuing years, Mr. Jimenez transformed FTI into our nation's largest computer components distributor for Latin and South America, with annual sales in excess of \$250 million. From 1990 to 1993 alone, FTI generated more than \$3 million in surplus capital and retained earnings, which Mr. Jimenez reinvested in the company. By the end of 1996, FTI had surplus capital and retained earnings of over \$12.4 million.

FTI's products include computer monitors, peripheral cards, hard drives, memory products, printers, and multimedia products. FTI has been the exclusive representative in Latin and South American for such prestigious companies as Quantum, Intel, Hyundai, Samtron, Future Domain, Kodiak, Cyrix, Summit, Lite One, Samsung, and Gold Star. FTI has also represented, on a non-exclusive basis, Texas Instruments, Micron, Maxtor, Motorola,

¹ A similar submission is being made to the Department of Justice.

IBM, Microsoft, NEC, and Canon. By investing millions of dollars into FTI and creating scores of jobs for U.S. workers, Mr. Jimenez has been duly recognized as a prominent member of Florida's business community. See Exhibit 1 (composite exhibit of FTI awards).

Understanding FTI's approach to business and its road to success will demonstrate that it already was established and very profitable (and did not need or seek government intervention) before it made any charitable and political contributions that have been questioned in the media and elsewhere.

A. Starting From Virtually Nothing, FTI (A United States Company) Had Become One of the Largest High Tech Product Sales and Now Manufacturing Companies Serving Latin and South America Long Before It Became Involved in Any Contributions.

- 1. FTI provides South and Latin American countries with the materials and service that had been provided only to the Northern Hemisphere.**

In the mid-to-late 1980's, the Latin and South American computer markets were served by a patchwork of brokers. Often operating from small store-fronts in the Miami area, these brokers did not provide up-to-date products, sold discarded and surplus obsolete inventory, failed to provide reliable, if any, service, and did not carry a consistent line of products.

FTI had commenced operations as a broker in 1988. The following year, Mark Jimenez bought the company and promptly understood that it could succeed by building brand name identification and loyalty in the computer market in the burgeoning Latin and South America region. To do that, however, FTI needed to become a comprehensive distributor for computer component manufacturers.

FTI's success as a distributor came in offering re-sellers and their customers what the brokers could not. As a distributor, FTI began selling products F.O.B. Miami to a network of

re-sellers who would take responsibility for shipping the products from Miami to each's respective countries in Latin and South America. Significantly, FTI's sales of its products F.O.B. Miami means that its sales are made, and its revenues accrue, **in the United States**. Moreover, FTI does not distribute its products to **any government in the U.S. or abroad**; in fact, FTI is **not** a government contractor in **any** country.

The FTI formula includes offering warranties that lasted 1-2 years (not 30 days, like the brokers); providing technical training and parts for its network of re-sellers in Latin and South America; providing consistent product lines that enable customers to upgrade their components over time; handling returns promptly and efficiently; undertaking promotional in-country educational training for customers and prospective customers alike; and arranging for brand name advertising (from flyers to billboards and mass media) in the countries in which its products are distributed.

When FTI first started operations, the products even it was selling were literally obsolete before they could be sold. Now, FTI is able to sell new products in Sao Paulo and Buenos Aires before they are offered in New York and Chicago. FTI's comprehensive approach literally revolutionized the sale of computer products in Latin and South America; that process is now essentially indistinguishable from similar distribution and sales operations in North America, Asia, and the European Community. FTI's competitors are rushing to catch up.

2. FTI successfully services all of Latin and South America.

Equally importantly from its own perspective, FTI adopted a strategy of marketing to the *entirety* of Latin and South America from the inception of its operations. It has sold to re-

sellers and distributors servicing almost every South and Latin American country except Guyana, Belize, Cuba, and certain Caribbean Islands. This strategy has proven central to FTI's continued growth because it ensures the company does not become dependent on the economy -- or the political or regulatory situation -- in any one country. For instance, FTI was able to absorb the 1994 collapse of the Mexican economy and continue to grow that year, while certain other Mexico-dependent distributors were, quite literally, wiped out.

Through these efforts, FTI has been able to aggressively expand manufacturers' brand identification and loyalty -- and thus market share -- in Latin and South American markets. Often starting with zero market penetration, FTI obtained market shares for manufacturers that often dramatically exceed these manufacturers' market shares in the rest of the world. For its efforts, FTI has been awarded rare exclusive distribution licenses from certain manufacturers for the entire Latin and South American market. *See Exhibit 2 (compilation of FTI exclusive distribution agreements).*

In 1989, the Korean computer monitor manufacturer, Samsung, offered FTI its first license to distribute a single line of monochrome monitors in Latin and South America. Samsung soon permitted FTI to expand into color monitors and other Samsung products. In a little over two years, FTI went from being Samsung's smallest distributor to its largest. During that same time period, FTI made Samsung the largest selling computer monitor in Latin and South America. *See Exhibit 1 (including 1992 commendation letter from Samsung recognizing FTI as "again" being "our top distributor" and photographs of Samsung's 1992 Pinnacle Partner award to Mr. Jimenez and its 1992 "Outstanding Sales Achievement Award" to FTI).* Indeed, Samsung decided to open a warehouse in South Florida just to serve FTI.

FTI began its transition from being just a monitor distributor in 1991, when it began distributing hard drives and memories. That year, FTI obtained an exclusive license to distribute premier Quantum hard drives. FTI's distribution efforts for Quantum rivaled its efforts for Samsung. In 1991, Quantum had zero market share in Latin and South America; actually, its market share was negative because the manufacturer had made one sale, for which it was not paid. By 1993, FTI was Quantum's largest distributor. Today, through FTI and its regional alliance of distributors, Quantum has over 50% percent market share in Latin and South America, compared with Quantum's 21-22% worldwide market share. See Exhibit 1 (containing commendation letter from Quantum and photographs of Quantum "Distributor of the Year" awards for 1994 and 1995); and Exhibit 2 (containing exclusive Quantum distribution agreements).

Also in 1991, FTI obtained an exclusive license to market Cyrix CPU's in Latin and South America. By 1994, FTI brought Cyrix' market share in Latin and South America to 20%, compared with that company's 1-2% market share worldwide. See Exhibit 1 (containing commendation letter from Cyrix and photograph of 1996 Cyrix Outstanding Sales and Market Development award)

In 1995 and 1996, respectively, FTI obtained exclusive distribution relationships with NEC for its floppy, hard, and zip drives, and with JTS and Maxtor for their hard drives. See Exhibit 1 (containing photograph of NEC's award for selling its 1,000,000th floppy disk drive in one year period and commendation letters from NEC and Maxtor). FTI also entered into the printer distribution business in the 1995-96 time period. From beginning to offer Canon

printers in 1995, it took FTI only a matter of months to develop, and now implement, Canon's first comprehensive pan-Latin American sales strategy.

3. FTI has been expanding products and offering its own merchandise.

In 1992, FTI began offering monitors and notebooks under its own then-new proprietary MarkVision trade name for products then made in Asia. FTI is now assembling and manufacturing an increasing portion of MarkVision products in the United States, using U.S. manufactured components.

Similarly, FTI began offering multimedia products in 1995. Just two years later, FTI offered multimedia products assembled in Miami, under its own MarkVision name.

In addition, since 1995, FTI has had two main strategies. *First*, it has licensed the distribution rights in the Southern Cone of South America (Brazil, Argentina, Uruguay, Paraguay, and Chile) for in-country sales of its proprietary MarkVision products and the other products it is licensed to distribute. FTI determined that dealers and re-sellers in these countries, with their rapidly changing economies and computer markets, needed and deserved full in-country sales, support, and credit operations.

Second, as explained above, FTI has begun its own domestic manufacturing and assembling operations under its MarkVision trademark. While FTI still has MarkVision monitors manufactured abroad (monitors are not manufactured by any company in the United States), FTI began manufacturing and assembling its MarkVision multimedia and memory products in the United States in 1994 and 1995. Regarding MarkVision products that FTI assembles, FTI seeks to use U.S.-manufactured components from, among others, Texas Instruments, Micron, and Cirrus Logic, whenever possible. Just two to three years after it

commenced U.S. manufacturing and assembly operations, a full 8-10% of FTI's revenues already comes from products it manufactures or assembles in the U.S. FTI is expanding its manufacturing and assembly operations into video cards, fax modems, and motherboards, again using U.S.-made products. We attach as Exhibit 3 FTI's 1998 product guide which shows the wide range of MarkVision and other companies' products offered by FTI.

Consistent with its growth, FTI has increased the number of its employees in the Miami area. Starting with ten employees in 1988, FTI now employs approximately 130 individuals in South Florida.

4. FTI's success has spilled over to Miami and has been acknowledged.

FTI's Latin and South American strategy revolutionized the business of selling computers and computer components in South Florida. Rather than an industry of brokers, major multinational manufacturers and multinational distributors have come to Miami to compete with FTI. Hardware manufacturers such as Canon, Samsung, Acer, NEC, Panasonic and others established facilities in Miami. Software manufacturers such as Microsoft and Oracle also established major facilities in Miami. Multinational distribution companies, such as Merisel, TechData, and Ingram, also established operations directed to the Latin American market. In fact, the area around the facilities of FTI is commonly referred to as South Florida's little Silicon Valley. Moreover, many of the Asian manufacturers who had used the free trade zone in Panama, moved much and, in some cases, all of their freight and logistics operations to Miami. The impact on the Miami economy has been impressive.

For its part, consistent with the staggering increases in its product lines, between 1988 and 1995, FTI's sales revenues grew from \$6,000,000 to \$251,000,000, a dramatic 4100%

increase. See Exhibit 4 (FTI's audited financial statements for the years 1991-1995). The awards FTI has received from its manufacturers and the business community also demonstrate its success. See Exhibit 1 (composite exhibit of FTI commendations and awards). We also attach the *Inc.* magazine article listing FTI as the 327th fastest growing privately held U.S. company in 1995, (see Exhibit 5), as well as a compendium of news reports from the U.S. and abroad attesting to FTI's growth, success, and vision. See Exhibit 6.

B. FTI's Operations Have Been Run by Persons Often New to this Country, Who May Be Excellent and Innovative Computer Business Entrepreneurs, but Who Have Not Had an Opportunity to Gain Sophistication in Many of the Intricacies of United States Law That Do Not Relate Directly to FTI's Business Operations.

FTI prides itself on providing opportunities to many immigrants, like FTI's founder, who are willing to work hard and succeed in the United States. FTI's sales staff is Spanish-speaking, with many of Hispanic descent (which is invaluable for selling to Latin and South America). Many of its operational personnel and senior executives are, like FTI's founder, from the Philippines. FTI estimates that more than one-half of its employees are U.S. citizens (many of them immigrants themselves), and the others are permanent resident aliens seeking a start in the United States.

Furthermore, FTI has provided entry level employees -- often, as explained above, new to this country -- with the experience and training that have enabled them to succeed. Employing the philosophy to promote from within if possible, FTI's vice president of sales worked his way up through the ranks from a \$6 per hour janitor. FTI's senior sales staff have started as receptionists. Its warehousemen have graduated to become managers and operations executives. An assembler on one of its product lines now manages the whole line.

To provide an idea of the relative youth of the company, the average age of FTI's employees has *risen* in recent years to reach the mid-to-late 20's. Along the way, FTI has provided these employees with the opportunities for work-specific training that enabled them to advance.

Generous raises and bonuses, commensurate (if not more) with the company's success and growth, have been provided both in individualized and group instances. Indeed, certain FTI employees have seen their salaries increase by over 50%, if not more, in the last five years. Others have received bonuses that exceeded 10%, 20% and even higher of their salaries in years when they did not make political contributions. Indeed, FTI has even provided down payments for houses, or assisted with the financing for houses, of executives at the sales level and higher. Finally, FTI has provided health and dental insurance for all its employees that is, again, among the best in South Florida in this industry. Taken together, FTI's salary and benefit structure leads the industry in Miami.

The background of FTI's employees and the relative ease by which they were given salary increases and bonuses are key to understanding how and why contributions were made. More specifically, FTI's rapid growth and promotion policies resulted in relatively unsophisticated and often young employees becoming well-compensated executives very quickly. They came to expect their salaries and bonuses for their performance, but also because of the generosity of the company. It was not unusual for senior employees to expect, or ask for, bonuses and increased salary. Nor was it unusual for candidates and political committees to seek these newly-prosperous people out for political contributions (and other

charitable solicitations), before they had any introduction to the law and regulations governing political activity.

C. FTI Has Worked Diligently to Ensure Its Legal and Accounting Compliance Programs Have Kept Pace with the Scope and Volume of Its Operations.

FTI's practice of hiring entrepreneurial young people, many of whom are immigrants, its preference to promote from within, together with the inherent difficulties of selling products to Latin America, has required FTI to remain diligent to ensure that it complies with applicable law. These problems have been met with thorough efforts to establish procedures to ensure strict compliance with the applicable laws and to educate all of FTI's employees regarding their obligations in respect to the laws.

For example, Miami is well known as a place where there are drug trafficking and money laundering problems. As a participant in the South Florida and Latin American business communities, FTI's management was aware of the related currency rules and customs requirements, and it sought to educate their employees about them. After several efforts at obtaining necessary instructional materials regarding compliance with these rules and requirements, FTI commissioned a law firm in Miami to write a compliance manual relating to the currency laws. A lawyer who had been a senior staff attorney for the Justice Department's Strike Force in Miami first wrote this manual at the end of 1993 (and it has been periodically updated). FTI also had the lawyer write a second manual on other criminal and regulatory statutes (18 in all) about which FTI's employees had to be educated to ensure FTI's operations complied with applicable law. Once these manuals had been prepared, FTI submitted the drafts to a second law firm in March of 1994 for an opinion that the contents were both correct

and sufficient, given the nature and location of FTI's business. *See Exhibit 7 (compilation of FTI attorney-prepared compliance manuals).*

FTI also sought out computer programs to enable it to comply with the currency transaction reporting rules. Being unable to find a computer program, FTI undertook substantial efforts to write its own computer program to scan all FTI transactions to ensure compliance with these laws. FTI also dedicated two employees to manually review every transaction to ensure compliance with the currency transaction reporting requirements. In 1997, FTI added to its internal audit department a former IRS auditor who was a member of the currency transaction audit group in Miami to enhance its efforts to comply with these laws.

For similar reasons, FTI also had a law firm prepare a credit and collections manual to address the legal compliance aspects of this part of its business. This manual, beyond providing forms and guidance on credit and collection, dovetails with the currency manual to ensure compliance with all relevant laws of the United States. It is also attached in Exhibit 7.

An additional problem faced by FTI, along with all other companies in Miami, was the large number of thefts of in-bound and out-bound products. Often these thefts occurred at the Port of Miami or Miami International Airport. Frequently, they involved hijacking of trucks with life threatening incidents to the drivers. In response, FTI's Executive Vice President helped spearhead the creation of a regional cargo security council that assists federal, state, and local law enforcement officials to combat cargo theft and related crime. Encouraged by Florida's U.S. Senators and other elected representatives, it has drawn praise from Attorney General Reno, who had her own experience addressing this issue during her service in Florida

law enforcement. *See Exhibit 8 (compilation of materials showing FTI's leadership role in the creation of the South Florida cargo security council).*

With its growth, FTI realized that it needed audited financial statements. FTI hired Deloitte & Touche to be the outside auditors of the company. However, by 1994, FTI knew that its ability to grow and the success of its promote-from-within formula required that it hire a number of professionals to assist in control and compliance. Thus, in late 1994, FTI hired from Deloitte & Touche the two manager level accountants who had been responsible for the audits of FTI. Simultaneously, FTI commissioned Deloitte & Touche to conduct a control and management study of FTI to enable FTI to strengthen its administrative staff. These persons left Deloitte & Touche knowing much about FTI and its desire to fulfill its obligation to comply with all aspects of the law.

As we will explain, however, these same controls and compliance did not soon enough become implemented once FTI and its executives and employees began to be solicited for political contributions in 1994. FTI was neither familiar with these laws, nor did it understand all their nuances. Moreover, unlike, for instance, the currency transaction laws, nothing in FTI's business experience provided any indication of how strict and comprehensive federal campaign finance laws (when applicable) can be.

Perhaps the most important reason for FTI's lack of attention to campaign laws, however, was that FTI and its executives and employees were most often solicited for contributions by their attorneys and professional consultants, upon whom FTI relied for advice in areas (such as the campaign finance laws) outside the company's ken. Rather than providing substantive, cautionary guidance, and an overview of the applicable law, however, these

fundraisers kept asking for more contributions, once they understood FTI's and its executives' and employees' willingness to give. While reliance on attorneys (whom FTI naturally assumed knew what they were asking for) is not a complete excuse to any inadvertent errors that occurred, it goes a long way to explain why this company, focused as it usually was on compliance, had this blind-sided area.

III. FTI'S INVOLVEMENT IN POLITICS SOUGHT TO EXPRESS ADMIRATION FOR PRESIDENT CLINTON AND "GIVE SOMETHING BACK" FOR FTI'S ABILITY TO SUCCEED IN THIS COUNTRY.

As astonishing as it may sound to the jaded, FTI's involvement in United States public affairs came from its founder's unvarnished and enthusiastic admiration for President Clinton and his desire to attempt to pay this country back for the opportunities it has provided him. As explained above, FTI has succeeded through the hard work and dynamic ideas of immigrants provided an opportunity to excel and prosper. The idea that Mr. Jimenez and others in FTI could come to the U.S., have an idea for servicing new markets, and then pursue that idea – by obtaining capital, establishing a company under the rule of law, and seeking clients from around the world – is something many Americans take for granted, but something Mr. Jimenez has not.

Moreover, FTI's founder was totally and thoroughly taken with President Clinton's success story. Mr. Jimenez identified with the President's rise from humble beginnings and family strife. The President's resiliency following his mixed Arkansas state electoral success and the withering attacks on his character in national politics resonated with Mr. Jimenez, who himself started anew after immigrating to the United States. President Clinton's commitment

to democracy around the world also impressed Mr. Jimenez, who left the Philippines in part because of his disagreements with the government then in power.

Moreover, President Clinton's efforts to develop a worldwide economy have helped FTI to pursue its American Dream. As explained above, FTI was working diligently to open Latin and South American markets to the best in high tech products that this country and the rest of the world have to offer, well before President Clinton was elected. For his part, President Clinton's support for free trade (*e.g.*, NAFTA and "fast track" trade authority) and his paying attention to South America only reinforced FTI's admiration and support.

But it was FTI's leading role as a sponsor of the Miami Summit of the Americas (held in December of 1994), that truly galvanized FTI's founder's admiration of President Clinton into political action. FTI's attorneys at the Greenberg, Traurig law firm solicited FTI's participation in the Summit during the planning stages in mid-1994. FTI was told, and this became the company's pattern, that it could make large corporate contributions to this event. In November of 1994, as a result of the solicitation, FTI made a direct contribution of \$100,000 to the Summit. FTI also provided \$144,608 in computer equipment in-kind to the Summit. Each of the participating delegations was provided local area network file servers, notebook and desktop computers, and printers to use during the Summit. FTI computers even provided real-time translations of Summit proceedings. In 1995, FTI participated in the second Summit of the Americas. It was held in Denver Colorado. FTI contributed \$50,000 in direct money support and \$49,371 in computer equipment, in-kind. See Exhibit 9 (compilation of materials documenting and explaining FTI's role in the Summits for the Americas).

Of course, FTI had economic reasons for sponsoring the Summit; its participation highlighted its pre-existing commitment to Latin and South America. As Summit organizers (including the Greenberg, Traurig law firm) explained in encouraging FTI's participation, the company's marquee standing as a sponsor showcased FTI and its founder as dynamic and successful--in their own hometown of Miami. However, it is important to keep in mind that, at the time of the Summit, FTI was *already* doing business in approximately two-thirds of the 34 countries whose leaders attended the Summit. Moreover, FTI hoped that its and other U.S. companies' Summit efforts could further solidify U.S. (and Miami's) business relations with its southern neighbors -- an aspiration with both an economic and an eleemosynary component.

Certain press reports have alleged that FTI participated in the Summit to gain entre to South and Latin America, but these claims mistake cause and effect. As explained above, FTI entered into these countries' markets long before it was safe (economically and otherwise) or fashionable to do so. As we have demonstrated above, FTI was a pre-eminent company in this region before President Clinton was elected.

That said, the planning and conduct of the Summit confirmed for FTI President Clinton's commitment to free trade in Latin and South America and his support of the elected democracies that make truly free trade possible. Two of the Summit's three stated goals were: (1) enhancing democratization and effective governance; strengthening democracies to counter threats such as corruption, terrorism, and narcotics-trafficking; and (2) expanding and integrating the economies of the hemisphere to maximize their potential, promote greater openness in markets, and encourage increased investment. In announcing the Summit on March 11, 1994, President Clinton hailed the "unique opportunity to build a community of free

nations, diverse in culture and history, but bound together by a commitment to responsive and free government, vibrant civil societies, open economies, and rising living standards for all our people."

For a self-made entrepreneur working in that region who also knew the value of freedom first-hand, the President's commitments, words, *and* action were a boon not only to FTI's business, but Mr. Jimenez' psyche. Following the Miami Summit, FTI and its employees began making major contributions to political events. FTI's corporate sponsorship of the Summit established the pattern for other politically-oriented contributions to come -- that of large donations paid for by FTI.

Indeed, political activity and involvement can, as it did for FTI, beget itself. The idea that a Filipino native (but a permanent resident alien of this country), could not only become involved in the U.S. political process, but actually come to be known to a President he greatly admired, only fueled Mr. Jimenez' desire to participate further. While the current political dialogue may tend to diminish the office of the Presidency, it **must** not be forgotten that, for an individual not involved in the highest echelons of politics on a daily basis, meeting the President of the United States -- not to mention having him recognize you, regardless of whether you won the NBA championship, a Nobel Prize, or made a political contribution -- is a heady experience, in and of itself. To be personally invited to the White House and sit with the President was itself the reward of a lifetime for Mr. Jimenez.

Furthermore, press allegations either omit or fail to understand that FTI and Mr. Jimenez did not simply make monetary contributions to campaign and party organizations. They became involved in very personal projects connected with the life of the President. FTI

is a major sponsor of the restoration of the President's childhood home in Hope, Arkansas. It has made significant contributions to restore the White House and the Blair House, as well. And before allegations regarding fundraising started to put a bad image on support, there was even a hope to assist in the development of the Clinton Presidential Library.

FTI's support for President Clinton went beyond money -- it was and remains a personal feeling and commitment. Mr. Jimenez took his whole family (including most of his (then) 10 children) to Hope to help repaint the President's home. And, many of them did not go to Hope to paint just once, they went twice. See Exhibit 10 (photographs of Jimenez family at President's birth place). Moreover, for the longest time, FTI's conference room and Mr. Jimenez' personal office were decorated with a series of framed poster size pictures of President Clinton. These activities partake of sincere and deep personal admiration, nothing more. In a sentence, some people in our country admire and look up to sports heroes, movie stars, musicians, or other entertainers; Mr. Jimenez' views are from an earlier time where people actually admired, looked up to, and even loved their country's leaders.

The press and the political investigative process have a tendency to simplistically tar different people with base motives that might be ascribed to others, but this process can, as here, result in false innuendo, if not allegations of wrongdoing. John Huang is said to be advancing the interests of his alleged sponsors in China and the Lippo Group. Roger Tamraz unabashedly promoted his Central Asian pipeline project.

By contrast, FTI did not have any such direct economic motivation. FTI does not sell to U.S. or foreign governments, so it could not obtain any new private business or lucrative government contracts in return for its contributions. FTI sells its products F.O.B. Miami (*i.e.*,

in this country), so it does not confront red tape, at home or abroad, that might need resolving. Nor was it dependent on its sales to re-sellers in any one country. No call was made, no letter written, no indulgence granted, no tariff changed, and no bill signed for FTI's benefit, and there has never been any claim that any such favor was bestowed, or even asked for. Rather, FTI and its executives were able to attend events, large and small, with the President and First Lady they admired. Such attendance (and the personal satisfaction derived) was **all** that they sought and is precisely what their and many other donors' political contributions may and do permissibly yield.

Finally, FTI's largesse was not confined to initiatives relating to President Clinton or the Democratic Party. To the contrary, FTI had and continues to have a corporate policy of giving to virtually any worthy cause, practically on an "anyone who asks" basis. FTI gave to the city of Miami; FTI gave to the United Way; FTI gave away free computers to local area schools; FTI gave to the Jewish Community Center and other churches and religious organizations. Mr. Jimenez endowed and helped found the Technology Foundation, which is now donating computers and promoting computer literacy in a wide range of South Florida educational and training institutions. When FTI gave to restore the President's birthplace or to the DNC, such generosity was just an extension of FTI's charitable corporate culture.

More specifically, we attach as Exhibit 11 a schedule of FTI's charitable contributions for 1994 through 1997. Exhibit 11 shows that, from 1994 to 1997, FTI contributed a total of \$403,093 to charities (mostly in South Florida) not related in any way to President Clinton or the Democratic Party. FTI also made \$345,000 in charitable contributions to the Summits for the Americas, the White House Endowment, and the Clinton Birthplace Foundation, for a total

of over \$748,000 in charitable contributions over this most recent four year time period. We also attach as Exhibit 12 a compilation of news reports and commendations regarding FTI's charitable activity in South Florida.

IV. FTI'S INTERNAL INVESTIGATION REVEALED A HANDFUL OF INADVERTENT CONTRIBUTION ERRORS

A. FTI Sought to Find Out About its Own Compliance With Applicable Election Rules and Regulations.

In light of the political and media focus on campaign contributions in the 1996 presidential election, and in specific response to news articles suggesting or otherwise questioning the propriety of FTI's campaign contributions and political involvement in connection with the 1996 election, FTI, at the direction of Mr. Jimenez, retained the law firm of Winston & Strawn ("W&S") to conduct an internal investigation. That investigation, which was authorized months before FTI was ever contacted by the authorities, was tasked to review all aspects of FTI's political involvement to ensure that the allegations being made were without basis. This was done in the same manner as FTI had undertaken such internal reviews for regulatory compliance in other areas of its business. To this end, W&S specifically sought to determine whether FTI's "soft money" contribution activity complied with the letter and spirit of applicable law and standards, namely (1) whether any soft money contributions could be linked to foreign sources of funding; and (2) whether there was any evidence that soft money contributions were made in exchange for, or because of, any official act. Later on, Mr. Jimenez asked the firm of Brand, Lowell & Ryan ("BLR") to become involved as well when the authorities began seeking information from him.

The internal review revealed no such instances of any unlawful conduct. Specifically, FTI and/or Mr. Jimenez made "soft money" contributions with their own funds. These funds were derived from FTI's operations in the United States. Not one "soft money" dollar contributed by FTI and Mr. Jimenez in any election, in 1996 or otherwise, was made with someone else's funds or on behalf of someone else. Nor is there any evidence that the contributions were made with an unlawful purpose. As noted above, FTI is not a government contractor, either in the U.S. or abroad. No one at FTI ever asked for any special favors or received any special favors at any time from Mr. Clinton, or anyone acting on his behalf, or anyone associated with the White House.

The internal review, however, also included a review of contributions by FTI's officers and employees to candidates for Federal office in the 1994 and 1996 election cycles, that is, "hard money" contributions. The investigation revealed a handful of mistakes that were caused by a lack of sophistication among the employees and officers at all levels with respect to, *inter alia*, the distinction between soft and hard money contribution activity. Specifically, the internal review revealed that FTI ended up reimbursing some contributions to four federal candidates' political committees: Senator Edward Kennedy's 1994 campaign committee, President Clinton's and Vice President Gore's 1996 primary committee, the 1996 senatorial campaign of Mr. Roger Bedford (Alabama), and the 1996 senatorial campaign of Mr. Tom

Strickland (Colorado). More specifically, the following FTI employees made such contributions:

1994 Contributions:

Ted Kennedy for Senate:

Greg Narvasa	2,000	9/20/94
Juan Ortiz	2,000	9/20/94
Ricardo Crespo	1,000	10/5/94
Reynaldo Crespo	1,000	10/15/94
Len Keller	1,000	1/18/95
Marcel Crespo Jimenez	2,000	2/7/94
Donna Boskat	2,000	2/7/94

1995 Contributions:

Clinton/Gore '96 Primary Committee:

Jacob Del Valle	1,000	9/7/95
Richard Esparragoza	1,000	9/7/95
Lou Leonardo	1,000	9/7/95
Reynaldo Crespo	1,000	9/7/95
Juan Ortiz	1,000	9/7/95
Greg Narvasa	1,000	9/7/95
Jorge Fenton	1,000	9/7/95
Manuel Garcia	1,000	9/7/95
William Gearhart	1,000	9/7/95
Marcelino Brotonel	1,000	9/7/95
Luz Gonzalez	1,000	9/7/95
David Fried	1,000	9/7/95
Daria Haycox	1,000	9/7/95
Juan Ruiz	1,000	9/7/95
Ruth Ramirez	1,000	9/7/95
Jennifer Seijas	1,000	9/7/95
Roland Sacramento	1,000	9/7/95
Enrique Sanchez	1,000	9/7/95
Ricardo Crespo	1,000	9/7/95
Ernesto Bonfante	1,000	9/7/95
Robert Nowell	1,000	9/7/95
Len Keller	1,000	9/7/95

Contributions 1996:

Anne Henry for Congress (Arkansas)

Rene dos Remedios	1,000	10/21/96
Raymund dos Remedios	1,000	10/21/96

Contributions 1996:

Roger H. Bedford for U.S. Senate (Alabama):

Marcel Crespo	2,000	9/25/96
Greg Narvasa	2,000	9/25/96

Contributions 1996:

Friends of Tom Strickland (Colorado):

Juan Ortiz	1,000	9/25/96
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FTI's reimbursements for these contributions were made through the provision of bonuses to those who made the contributions. They represented nothing more than a continuation of FTI's usual approach of funding civic activity. The internal review found that most (but not all) employees presumed at the time they made the contributions that they would be reimbursed for their contributions; after all, as explained above, this is an organization with a history of paying for new houses for its employees, for providing significant bonuses "on a whim," and for making charitable and permissible political contributions with corporate funds. Though collective efforts to raise funds for these federal candidates fell to FTI's employees, FTI acted to ensure that the employees themselves did not have to bear the expense. These employees who contributed assumed reimbursement would be coming, those from whom it was requested assumed the same, and no one knew to stop and ask if this was permissible or not.

The investigation revealed that FTI employees had no knowledge that such reimbursements would violate the law. As explained above, everyone knew of FTI's generous charitable contributions. In addition, certain of the FTI contributors knew that the company

had been starting to make larger, corporate "soft money" contributions for party activity and for related events (*e.g.*, the Summit of the Americas and the Democratic National Committee). FTI's response to solicitations from actual federal candidates represented just the next step in the company's making of charitable and civic contributions virtually on an "anyone who asks" basis. No one at the company had reason to think the company could not also support individual employees making their own contributions, if the employees were properly paid and taxed for moneys they received – just like they had always been. In fact, the officers and employees, did not even recognize the terms "soft" and "hard" money, much less understand the minutiae of federal campaign finance law. Nor did they evidence any knowledge of federal campaign finance reporting requirements. Instead, the extent of the understanding of most of the employees was merely that a candidate would "look better" if it appeared that he or she enjoyed broad support from the greatest number of contributors. While some individuals understood that there were limits on the amount one could lawfully contribute, these individuals did not understand, for example, that any direct or indirect reimbursement by the company for contributions to Federal candidates might transform a contribution which conformed to the rules into one that did not.

Moreover, when FTI and its employees were solicited for contributions, no one, especially not the attorneys who introduced the company to politics, explained that corporate reimbursement of "hard money" contributions was not appropriate. Indeed, at the same time that employees were asked for contributions, the company was solicited by the same people for "soft money" donations. To those in the company, it looked the same.

In addition to not being informed of any of these rules and regulations by its attorneys, FTI did not withhold information pertaining to its contributions from its auditors, Deloitte & Touche. The payments made to campaigns and to people were kept in the company's books and records as regular and annual salary and bonuses. FTI employees invited the company's attorneys and accountants to attend the events when they attended. As one example, the managing partner of Deloitte & Touche attended the Clinton-Gore Dinner event in Miami in September 1995 that was also attended by people from FTI. FTI's auditors did not advise FTI that Federal law may make certain contributions unlawful. While certain mistakes were made, they were made because everyone at FTI believed their activity -- initiated by their attorneys and overseen by their accountants -- was well understood and proper.

For all these reasons, FTI's reimbursement of these federal candidate contributions does not represent more than a mistake. It is not a "knowing and willful" violation of federal campaign finance laws.

Finally, to put these hard money contributions in some perspective, the amount involved (under \$35,000 from 1994 through 1997) is dwarfed by FTI's charitable contributions (\$748,000), described above, over the same time period. Such amount is also modest as compared to reimbursed contribution cases that have been resolved at the Federal Election Commission.

B. FTI Hereby Requests Pre-Probable Cause Conciliation Relating to the Instant Inadvertent Violation.

Again, in light of FTI's efforts in corporate compliance in other areas of the law, the company's introduction to politics by its own attorneys, and the complete openness in which the contributions were made, no one should interpret the few instances of mistakes as anything

but that, and subject to a civil administrative remedy by the Commission on a pre-probable cause conciliation basis.² Moreover, because FTI did not knowingly and willfully violate the law, this corporate conduct should not be subject to enhanced Commission penalties applicable to "knowing and willful" violations. Indeed, there is a great deal of evidence which supports the fact that FTI did not understand that its conduct might violate any rule.

Equally important, there is no evidence of a "cover-up" of these activities; nor has there been any effort on behalf of the company to impede or obstruct any investigation. Just the opposite is the case -- FTI directed an internal compliance review and, once errors were discovered, directed its attorneys to come forward to report those mistakes to the appropriate authorities.

The Commission has administratively resolved cases involving much greater amounts of illegal contributions. In Matter Under Review 4398, Mr. Thomas Kramer voluntarily reported to the FEC that he (a foreign national) had illegally made \$322,600 in direct contributions, \$287,600 in indirect contributions through seventeen of his companies, and reimbursed \$21,000 in contributions made by his assistant. Through his attorneys, Mr. Kramer explained that, although he was an astute real estate developer in Miami's South Beach area, he was a German citizen who spoke English as a second language and did not know he was violating federal campaign finance laws. Nor, he explained, did those soliciting him inform him of the applicable prohibitions. Even though the Commission concluded that statements by a DSCC staff person should have early on put Mr. Kramer on notice about various contribution

² In its submission to the Department of Justice, FTI has pointed out that the inadvertent violations found should be addressed by the Commission.

prohibitions, the Commission imposed a civil money penalty against Mr. Kramer of \$323,000 pursuant to a conciliation agreement finally concluded in July of 1997.

Commission resolution of the violations listed is consistent with the fact that Mr. Kramer voluntarily came forward and demonstrated that, as a recent entrant to the United States (albeit a financially successful one), he did not know he was violating the law. These exact same considerations apply to FTI and its officers and employees, except that the improper contributions at issue are orders of magnitude smaller with respect to FTI, and there is no evidence at all that FTI and its employees knew or had any notice that reimbursing "hard money" contributions was illegal.

Furthermore, the Commission and the Justice Department appear to have permitted other reimbursed corporate contribution cases to be resolved at the FEC level, even when the Commission has found reason to believe that the company's top officers learned of the reimbursement prohibition, but nonetheless **continued** the practice. The respondents in Matter Under Review 4090 (commenced by a voluntary self-reporting to the Commission) included Firearms Training Services, Inc.; its CEO, Jody D. Scheckter; and its Chief Financial Officer Robert Motter. The case involved \$7,500 in reimbursed contributions to six federal candidates and the DCCC. A civil money penalty of \$90,000 was imposed against the company and Mr. Scheckter pursuant to the Commission's pre-probable cause conciliation procedures in December of 1996. The fact that reimbursements were made to six different candidates and one party committee (as opposed to four different candidates in FTI's case) and the Commission's finding that these respondents in MUR 4090 knew they were violating the law

makes the instant case involving FTI an even more suitable candidate for administrative FEC resolution.

We direct the Commission's attention to Matter Under Review 4286. That matter under review was not initiated voluntarily, but via an FEC complaint by a former employee of General Cigar Company. Ultimately the company admitted that it reimbursed three employees for \$11,000 in contributions to three federal candidate committees, including Senator Dole's presidential campaign, Speaker Gingrich, and former Ways and Means Committee Chairman Gibbons. In MUR 4286, as well, evidence existed (contrary to the facts at hand relating to FTI), and the Commission concluded, that at least some of the violations were knowing and willful. Specifically, the Vice President and Chief Financial Officer of General Cigar stated his intention to "bury" contribution reimbursements when the complainant informed him that reimbursement was probably illegal. The company and its president paid an \$80,000 civil money penalty in March of 1997.

Finally, we direct the Commission's attention to Matter Under Review 4399, in which the respondents were, among others, Mr. Dennis Spice and the State Universities Retirement System of Illinois ("SURS"). In that MUR, the corporation reimbursed or paid credit card bills for 13 contributions made by individual corporate officers to federal candidates and party committees. The contributions totaled \$4,345. Following an internal corporate audit, the respondents in MUR 4399 brought the reimbursements to the Commission's attention. The respondents in MUR 4399 explained that they did not know they were violating the law and had not understood there was any distinction between political and educational events subject to Federal campaign finance laws and regulations and those that were not. FTI's internal

investigation, voluntary reporting, and confusion regarding federal campaign finance laws is similar to SURS'. Pursuant to conciliation agreements concluded over the summer of 1997, SURS paid a modest civil money penalty of \$3,000, while Mr. Spice paid \$7,500.

We believe this approach has many advantages for the case at hand. First, the conduct in question plainly is institutional in nature. The informal corporate culture, the lack of political sophistication, the absence of guidance from counsel soliciting the contributions, and the diverse group of people who made reimbursed contributions reflect the inappropriateness of seeking to hold one or several individuals personally accountable. Second, the initiation of the internal investigation and the subsequent decision to inform the authorities of the results evidence good corporate governance and an acceptance of responsibility. Third, FTI is not a publicly-traded company, and thus shareholders have not been deprived of any corporate funds that could be said to have been used to make political contributions. Fourth, FTI's good works in Miami and elsewhere reflect a corporate citizen cognizant of its community responsibilities.

VI. CONCLUSION

The political and media attention given the fundraising issue has had a tendency to obscure the issues and lump them all into the same category of problem. It also has caused different people to be tarred with the same, very wide brush just because they contributed. FTI's and its founder's role was different. It was initiated by lawyers; it was consistent with other charitable gifts; and it was motivated by personal commitment, not pecuniary or political gain. The few errors that occurred along the way were inadvertent, explainable by the background of the company, and should be addressed with these differences in mind.